

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

**BRUCE D. ALLEN and JULIE
ALLEN, husband and wife,**

Respondents,

v.

**CLARK KRAMER and ELIZABETH
KRAMER, husband and wife, and
CIRCLE K. ENTERPRISES, INC., a
corporation,**

Appellants.

No. 28349-6-III

Division Three

UNPUBLISHED OPINION

Sweeney, J. — This interlocutory appeal comes to us for review of the trial court’s decision to expand an existing easement for ingress and egress from approximately 15 feet to 30 feet. We conclude that the short plat that expanded the easement from approximately 15 feet to 30 feet did not evidence the intent to expand an easement that benefited an estate outside of the short plat. We therefore reverse the partial summary judgment and remand for further proceedings.

FACTS

Clark and Elizabeth Kramer along with Circle K Enterprises (the Kramers) own property near Naches Heights in Yakima County, Washington. Bruce and Julie Allen own contiguous property. Both properties include a roadway easement created in 1948: “a perpetual right to use that certain roadway as now exists over and across . . . for purpose of ingress and egress from the county road.” Clerk’s Papers (CP) at 74. The easement runs across the Kramers’ property and benefits the Allens’ property. And it has taken the form of a gravel road approximately 15 to 18 feet wide.

The Kramers’ predecessor in interest short platted their 58-acres into four lots in 1980. The short plat included a 30-foot easement for utility, access, and irrigation. The 30-foot easement tracks the same path as the Allens’ original easement. The Allens sued the Kramers for declaratory relief and an injunction that would bar them from interfering with the Allens’ easement. The Kramers moved for partial summary judgment which turned on whether the 1980 short plat granted the Allens an easement.

The court concluded that the 1980 short plat set the location and width of the easement at 30 feet and that the expanded easement benefited the Allens’ property because it did not except the property. The superior court then granted partial summary judgment in favor of the Allens, expanding their property’s easement to 30 feet.

The Kramers moved for discretionary review here, and a commissioner of this court granted review.

DISCUSSION

The Kramers argue that the short plat does not manifest any intent to expand the Allens' easement and, so, legally it does not expand their easement. The Allens contend that parol evidence supports the notion that they were clearly intended beneficiaries of the 30-foot easement created by the 1980 short plat. They note that the original easement did not specify a width and that the 1980 30-foot easement ends right at their property. From this, they argue that the court appropriately inferred from the 1980 short plat the intent to benefit them.

We begin our analysis with the foundational principle that interests in land, including easements, must be conveyed by written deed. RCW 64.04.010; *Kesinger v. Logan*, 113 Wn.2d 320, 325-26, 779 P.2d 263 (1989). For an easement, this requirement is satisfied if the writing “demonstrate[s] a present intent to grant or reserve an easement” and is signed and acknowledged by at least the owner of the servient estate. *Zunino v. Rajewski*, 140 Wn. App. 215, 222-23, 165 P.3d 57 (2007); RCW 64.04.020. The owner of the servient estate must agree to convey property, and that agreement is essential. *Id.* at 222 (citing *Beebe v. Swerda*, 58 Wn. App. 375, 382, 793 P.2d 442 (1990)). The words need show only the intent to grant an easement, no particular words are necessary. *Id.*

Our task is to ascertain the grantor's intent. *See id.*

Here, we have a short plat that expands the width of the road—within the subdivision. The document expresses no

intent to expand the use of the road by the dominant estate, owned by the Allens. And the testimony before the court was that there was no intent to expand the easement. CP at 83. What is needed are words that “demonstrate a present intent to grant or reserve an easement.” *Zunino*, 140 Wn. App. at 222. Those words are absent here. This is not a situation where the location of the easement is disputed. In that situation, parol evidence may be used to establish the precise location of the servient estate. *Smith v. King*, 27 Wn. App. 869, 870-71, 620 P.2d 542 (1980). Parol evidence generally may not be used to establish the expansion of a burden on a servient estate. *Id.* at 871.

The Allens contend that a 1948 deed granting their easement was not specific enough and that the Kramers’ 1980 short plat document supplements the 1948 deed with definitive dimensions. The 1948 deed states that “a perpetual right to use that certain roadway as now exists over and across . . . for the purpose of ingress and egress from the county road.” CP at 74. That road has not moved since 1948. The Allens did not discover the 1980 short plat until 2004. But they were able to describe the road’s location “as it existed on February 19, 1948” in a road maintenance agreement they recorded in 1994 with the Yakima County Auditor. CP at 79. The Allens knew the easement’s location and width when they recorded it in 1994.

Again, an easement must comport with the statutory requirements of a deed. RCW 64.04.010, .020. An easement may be granted on the face of a short plat to the named grantees of property rights. *M.K.K.I., Inc.*

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v. Krueger, 135 Wn. App. 647, 653, 145 P.3d 411 (2006). The owner of the servient estate must manifest the intent to be bound, either expressly as shown on the face of the deed or by written or oral contract, or by implied intent through acts or conduct from which the owner of the dominant estate may reasonably rely. *Richardson v. Cox*, 108 Wn. App. 881, 891-92, 26 P.3d 970, 34 P.3d 828 (2001). The 1980 short plat here shows a 30-foot wide road for the stated purpose of access, utility, and irrigation easement. CP at 83. The Allens are not named grantees within the short plat and were not intended beneficiaries of any right under the Kramers' 1980 short plat.

We reverse the partial summary judgment and remand for further proceedings.

A majority of the panel has determined that this opinion will not be printed in the Washington Appellate Reports but it will be filed for public record pursuant to RCW 2.06.040.

Sweeney, J.

WE CONCUR:

Kulik, C.J.

Korsmo, J.